

IN THE MATTER OF  
TRACY M. WHITE

APPLICANT

\* BEFORE THE  
\* COMMISSIONER OF  
\* FINANCIAL REGULATION  
\* OAH NO.: DLR-CFR-76B-08-25556  
CFR File No.: DFR-EU-2008-114

\* \* \* \* \*

## **OPINION AND FINAL ORDER**

### **INTRODUCTION**

This matter came before the Commissioner of Financial Regulation (the “Commissioner”) for argument on exceptions filed by Tracy M. White (“Applicant”). Applicant requested a hearing on exceptions to the Proposed Order of February 2, 2009 issued by the Commissioner (“Proposed Order”). The Proposed Order modified the December 1, 2008 Proposed Decision (“Proposed Decision”) issued by Administrative Law Judge Neile S. Friedman (the “ALJ”) in this matter.

The Proposed Order, in modifying the Proposed Decision: (i) affirmed the ALJ’s Findings of Fact; (ii) rejected the ALJ’s Conclusions of Law, amending them to find that the Office of the Commissioner properly denied Applicant’s application for a mortgage originator’s license; and (iii) amended the ALJ’s Recommended Order by ordering that Applicant’s application for a mortgage loan originator license be DENIED.

A hearing on the Applicant’s exceptions was held before the Commissioner on July 14, 2009. Applicant failed to appear. W. Thomas Lawrie, Assistant Attorney General, presented arguments on behalf of the Office of the Commissioner. Proper notice to Applicant of the exceptions hearing, in conformity with COMAR 09.01.02.07(2), was established through the testimony of Suzanne Elbon, Administrator with the Office of Financial Regulation and the evidence entered into the record. Ms.

Elbon testified that the notice for the July 14, 2009 hearing was sent to Applicant at her last known address by both First Class U.S. Mail and U.S. Certified Mail. Ms. Elbon further testified that the hearing notice sent by Certified Mail was unclaimed by Applicant, but that the hearing notice sent by First Class Mail to Applicant was not returned to the Office of the Commissioner.

The record before the Commissioner at the exceptions hearing consisted of:

1. The ALJ's Proposed Decision;
2. The Commissioner's Proposed Order;
3. Applicant's Request for Exceptions Hearing;
4. Exceptions Hearing Notice dated February 24, 2009 (for April 20, 2009 hearing date);
5. E-mail dated April 20, 2009 from Applicant to Deputy Commissioner Kaufman requesting postponement of the April 20<sup>th</sup> hearing;
6. Exceptions Hearing Notice dated May 14, 2009 (for June 23, 2009 rescheduled hearing date);
7. Exceptions Hearing Notice dated May 27, 2009 (for July 14, 2009 rescheduled hearing date);
8. U.S. Postal Service "Track & Confirm" form showing that the May 27, 2009 hearing notice (for the rescheduled July 14, 2009 hearing) sent via Certified Mail was unclaimed by Applicant; and
9. All exhibits admitted into the record in the hearing before the ALJ.

### **DISCUSSION**

Applicant, although requesting a hearing on the exceptions, failed to offer to the Commissioner either in writing or through testimony any substantive exceptions to the Proposed Order. As noted above, Applicant failed to appear at the hearing on exceptions that she requested. Applicant has neither alleged errors of law or findings of fact, nor offered any arguments to support vacating or modifying the Proposed Order.

The Commissioner finds, as did the ALJ, that the "Applicant's conviction alone is grounds to deny her application because it is an act for which a licensed mortgage originator may be disciplined. Md. Code Ann., Fin. Inst. § 11-605(b) (Supp. 2008)." The Commissioner finds further that the criminal behavior that the Applicant engaged in was

of a very serious nature. The Applicant committed a financial crime involving the use of another person's credit card. As the ALJ found, the conviction resulted from "a weekend spent with a group of friends at a hotel whereby the group paid with a credit card that did not belong to them. The group was also in possession of other checks and credit cards that did not belong to them." Proposed Decision, at 3. The Applicant was sentenced to 180 days in jail, which she served. Id.

The Applicant's crime, being financial in nature, has a close relationship to the activities authorized by the license sought (a mortgage loan is perhaps the most significant financial transaction entered into by most consumers). Moreover, the Commissioner finds that the Applicant's behavior and conviction is relevant to the fitness and qualification of the Applicant to engage in the mortgage lending and origination business. Consequently, the Applicant does not satisfy the Commissioner that the Applicant is "of good moral character and has the general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair and efficient manner," a requirement for licensure under Md. Code Ann., Fin. Inst. § 11-605(a)(2).

The Commissioner concludes, based on the foregoing, there was no error of law or fact that would warrant vacating or modifying the Proposed Order. Moreover, the Commissioner finds that the ALJ's Proposed Decision was properly amended by the Commissioner pursuant to Maryland Code Ann., State Government § 10-220. Consequently, the Commissioner declines to vacate or modify the Proposed Order.

### **ORDER**

The Commissioner having considered the record in this case and the arguments presented at the hearing on exceptions, it is, by the Commissioner of Financial Regulation:

**ORDERED** that Applicant's application for a mortgage loan originator license be, and hereby is, DENIED; and it is further

**ORDERED** that the records and publications of the Commissioner reflect this decision.

10-8-09  
Date

Sarah Bloom Raskin  
Sarah Bloom Raskin  
Commissioner of Financial Regulation